

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MAURICE EMILE, )  
Plaintiff, ) Civil Action No. 04 - 974  
v. ) Judge Gary L. Lancaster /  
S.C.I. PITTSBURGH, and PA DEPT OF ) Magistrate Judge Lisa Pupo Lenihan  
CORRECTIONS, )  
Defendants. ) Doc. No. 66

**ORDER**

The above captioned case involves an allegation of failure to protect in violation of the Eighth Amendment to the United States Constitution. On December 22, 2006 this Court entered an order that Defendants were to provide plaintiff with the following:

- (1) all incident reports in its possession concerning the alleged incident or incidents;
- (2) all medical records in its possession concerning this alleged incident or incidents.

Pending before the Court are a Motion for Default Judgment filed by Plaintiff stating that the documents have not been provided. Also pending is a motion asking the Court to review a document attached to the filing of document number 66. Entering a default judgment is a harsh penalty for the failure to provide discovery. The proper and reasonable request would be a motion to compel the defendants to provide the discovery and comply with the Court's order. Therefore,

**IT IS HEREBY ORDERED** that Plaintiff's Motion for Default is **DENIED**.

However, **IT IS FURTHER ORDERED** that Defendants are to either provide the

documents to Plaintiff as set forth in the December 22, 2006 Order or file with the Court a statement detailing why said documents cannot be provided no later than March 30, 2007.

Regarding the motion asking the Court to review the attached document, said motion is **GRANTED** in that the Court has reviewed the document by virtue of it being filed. However, the Court is not certain what else the Plaintiff is asking in this regard, or his purpose in asking the Court to review this document.

**IT IS FURTHER ORDERED** that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(A), and Local Rule 72.1.3, the parties are allowed ten (10) days from the date of service to file an appeal from this order to the District Court. Failure to timely file an appeal may constitute a waiver of any appellate rights.



LISA PUPO LENIHAN  
U.S. Magistrate Judge  
3/14/2007

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